

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KAREEM GARRETT,	:	CIVIL ACTION
Plaintiff,	:	
v.	:	NO. 11-1888
	:	
GEORGE WAGNER, Warden of Berks	:	
County Prison; COMMISSIONER KEVIN	:	
BARNHARDT; NURSE LORI; NURSE FAY;	:	
VICTORIA GEESNER, M.D.; NURSE	:	
MEREDITH; OFFICER VOLLNER;	:	
CYNTHIA SHELTON, Medical Supervisor;	:	
JESSICA YERGER, Treatment Supervisor;	:	
JAY PHILLIPS; S. SWARTELY, Mental	:	
Health Supervisor; JOSEPH P. DOW, Officer;	:	
OFFICER LAZUR; OFFICER FISHER;	:	
JACKIE BROWN, Counselor; NURSE PAM;	:	
AMY FICK, Counselor; PETER DAMITER;	:	
PAULA A. DILLMAN MCGOWAN, CRNP;	:	
OFFICER NIEVES; FRANCO TASSONE,	:	
JR., Sergeant; S. JEFFERSON, Officer; J.	:	
KLINN, Officer; DAVID KOPE, Officer;	:	
DWIGHT RESCORLA, Sergeant; MIGUEL	:	
CASTRO, Lieutenant; NURSE	:	
CHARMAINE; and JESSE KIRSCH, Doctor,	:	
	:	
Defendants.	:	
	:	

O R D E R

AND NOW, this 15th day of March, 2012, upon consideration of the Motion to Dismiss Plaintiff's Complaint Pursuant to F.R.C.P. 12(b)(6) of Defendants Victoria Gessner, M.D.; Jesse Kirsch, PA; Paula Dillman-McGowan, CRNP; Cynthia Shelton, RN; Pamela Raab, RN (identified as "Pam Nurse"); Meredith Witman, LPN (identified as "Meredith Nurse"); Lori Beck, LPN (identified as "Lori Nurse"); Faye Oxenreider, LPN (identified as "Fay Nurse"); and Charmaine Mikosz (identified as "Charmine Nurse") (Document No. 39, filed August 23, 2011); Peter Damiter's Motion to Dismiss (Document No. 41, filed September 6, 2011); the Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) by Defendants, George Wagner, Dwight Rescorla, Miguel Castro, Christopher Vollmer, Seth Jefferson, Jeffrey Klein, David Kope, Franco Tassone, Jr., Jay Phillips, Joseph Dow, Jacqueline Brown, Amy Fick, Johnny Lazur, Charles Fisher, Kevin Barnhardt, Thomas Nieves and

Jessica Yerger (Document No. 42, filed September 6, 2011); and pro se plaintiff's Objection to Defendants Motion to Dismiss (Document No. 50, filed January 19, 2012), for the reasons set forth in the Memorandum dated March 15, 2012, **IT IS ORDERED** as follows:

1. The Motion to Dismiss Plaintiff's Complaint Pursuant to F.R.C.P. 12(b)(6) of Defendants Victoria Gessner, M.D.; Jesse Kirsch, PA; Paula Dillman-McGowan, CRNP; Cynthia Shelton, RN; Pamela Raab, RN; Meredith Witman, LPN; Lori Beck, LPN; Faye Oxenreider, LPN; and Charmaine Mikosz is **GRANTED** with respect to all of plaintiff's claims against defendants Gessner, Kirsch, Dillman-McGowan, and Shelton, and with respect to plaintiff's medical malpractice claim against Raab (identified on the docket as "Nurse Pam"), Witman (identified on the docket as "Nurse Meredith"), Beck (identified on the docket as "Nurse Lori"), Oxenreider (identified on the docket as "Nurse Fay"), and Mikosz (identified on the docket as "Nurse Charmaine");
2. The Motion to Dismiss Plaintiff's Complaint Pursuant to F.R.C.P. 12(b)(6) of Defendants Victoria Gessner, M.D.; Jesse Kirsch, PA; Paula Dillman-McGowan, CRNP; Cynthia Shelton, RN; Pamela Raab, RN; Meredith Witman, LPN; Lori Beck, LPN; Faye Oxenreider, LPN; and Charmaine Mikosz is **DENIED** with respect to plaintiff's Eighth Amendment denial-of-medical-care claim against defendants Raab (identified on the docket as "Nurse Pam"), Witman (identified on the docket as "Nurse Meredith"), Beck (identified on the docket as "Nurse Lori"), Oxenreider (identified on the docket as "Nurse Fay"), and Mikosz (identified on the docket as "Nurse Charmaine");
3. Peter Damiter's Motion to Dismiss is **GRANTED**;
4. The Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) by Defendants, George Wagner, Dwight Rescorla, Miguel Castro, Christopher Vollmer, Seth Jefferson, Jeffrey Klein, David Kope, Franco Tassone, Jr., Jay Phillips, Joseph Dow, Jacqueline Brown, Amy Fick, Johnny Lazur, Charles Fisher, Kevin Barnhardt, Thomas Nieves and Jessica Yerger is **GRANTED** with respect to all of plaintiff's claims against defendants Jefferson, Klein (identified on the docket as "J. Kline"), Kope, Dow, Barnhardt, Tassone, Yerger, Phillips, Lazur, Fisher, Brown, Fick (identified on the docket as "Amy Fich"), and Nieves; with respect to the "gave-no-care" claim against Wagner; and with respect to the excessive-force claim against Rescorla; and
5. The Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) by Defendants, George Wagner, Dwight Rescorla, Miguel Castro, Christopher Vollmer, Seth Jefferson,

Jeffrey Klein, David Kope, Franco Tassone, Jr., Jay Phillips, Joseph Dow, Jacqueline Brown, Amy Fick, Johnny Lazur, Charles Fisher, Kevin Barnhardt, Thomas Nieves and Jessica Yerger is **DENIED** with respect to all of plaintiff's claims against defendants Castro and Vollmer (identified on the docket as "Officer Vollner"), with respect to the retaliation claim against Wagner, and with respect to the retaliation and unsanitary-cell claims against Rescorla.

IT IS FURTHER ORDERED that the caption of the case is **AMENDED** to delete the following defendants against whom there are no remaining claims: S. Swartely; Commissioner Kevin Barnhardt; Franco Tassone, Jr., Sergeant; S. Jefferson, Officer; J. Kline, Officer; David Kope, Officer; Jessica Yerger, Treatment Supervisor; Jay Phillips; Joseph P. Dow, Officer; Officer Lazur; Officer Fisher; Jackie Brown, Counselor; Amy Fich, Counselor; Officer Nieves; Peter Damiter, Counselor; Victoria Gessner, M.D.; Cynthia Shelton, Medical Supervisor; Jesse Kirsch, Doctor; and Paula A. Dillman McGowan, CRNP. As amended, the caption reads as follows:

KAREEM GARRETT,	:	CIVIL ACTION
Plaintiff,	:	
v.	:	NO. 11-1888
GEORGE WAGNER, Warden of Berks	:	
County Prison; NURSE LORI; NURSE FAY;	:	
NURSE MEREDITH; OFFICER VOLLNER;	:	
NURSE PAM; DWIGHT RESCORLA,	:	
Sergeant; MIGUEL CASTRO, Lieutenant;	:	
and NURSE CHARMAINE,	:	
Defendants.	:	

IT IS FURTHER ORDERED that plaintiff is **DENIED** leave to amend his complaint on the ground that he has already filed seven amended complaints, and further amendment would be futile.

BY THE COURT:

/s/ Hon. Jan E. DuBois _____
JAN E. DUBOIS, J.